Exit Strategies

By Marcia Watson Wasserman

The sun is starting to set on the age of baby boomer dominance. As boomers turn to thoughts of retirement, firms need to think about transitioning all levels of leadership. Successfully transitioning a lawyer's practice can take three to five years, and transitioning firm leadership can take even longer. If firms plan for generational transitions, the process can be relatively painless and even invigorating. Those caught unprepared may face management breakdowns, clients abandoning the firm and cash flow crises.

First your firm should account for transition in its overall strategic business plan, including: core values (fundamental beliefs and principles shared by the partners, e.g., hard work, accountability, honesty) a firm-wide marketing plan, an analysis of practice areas, internal strengths and weaknesses, external trends affecting the profession, external opportunities and threats and financial projections.

Then you can move on to your written transition plan, which should cover: firm management, leadership training, retirement policies, legal expertise and client transition topics.

Managing the Management Transition

Your managing partner decides to retire, who runs the ship next? A written managing partner job description that entails not only the essential duties of the role but also the knowledge, skills and abilities required of the position is the map you will need to chart a smooth transition. Then you can evaluate the managing partner's term and incorporate term limits. If the firm's managing partner is a senior partner, a well-respected partner with leadership ability should be groomed to take over that role. When considering candidates, someone who possesses a different personal style and strengths than the current managing partner enjoys a greater likelihood of success, particularly if the current managing partner has served for a long time. If the firm is larger than 50 attorneys, serious consideration should be given to adding an executive committee to serve as a board of directors for the managing partner. The committee should be involved in the big-picture decisions and leave day-to-day operations to the firm's chief operating officer, executive director or legal administrator (depending on firm size).

If the firm is smaller and has had a long-time managing partner, the transition can be accomplished over a period of several years by giving the managing partner in training responsibility for discrete management projects, enabling him or her to sign firm checks, charging him or her with running partners' meetings, and generally increasing his or her responsibility over time. A written management transition timetable that lists areas of responsibility and targeted dates for the transition is the ticket to making sure everyone is on board. The outgoing managing partner should also be available to serve as a mentor for the first year of the new managing partner's term.

Leading the Way for New Leaders

Firm leadership does not stop with the managing partner, so neither should your transition plan. Most firms need leaders for various committees, practice groups or even informally as morale leaders. Leadership training cannot be an afterthought. Young attorneys need opportunities early in their careers in order to develop into future firm leaders. Associates should be included as members of firm committees or assigned responsibility on task forces in order to involve them in decision-making. Their unique skills and experience should be considered when assigning them to firm tasks. For example, associates with strong ties to their law schools can be included as members of the recruiting committee, and serve as mentors to new associates. Associates who are innovators with new technology can play a role in the selection of new computers and software. As they become junior partners, those with some leadership experience can chair firm committees and become assistant practice group leaders. Young lawyers should be encouraged to join local bar associations and actively serve on bar committees.

Retiring With Grace (and Cash)

Now your firm's biggest rainmaker decided to hang up her hat and sail around the world on her yacht with her retirement money. Do you have the cash she is due? Is she old enough? What if a partner with seniority wants to retire at the same time? Your firm needs to have written retirement policies, including any mandatory retirement ages, opportunities to work after retirement, provisions for early retirement, etc. The partnership agreement also should address retirement issues, especially questions about the nature and timing of retirement compensation. Is the retirement plan unfunded, and if so what would the impact of simultaneous retirements be on the firm's finances? Retirement policies and provisions may vary depending on firm culture but all have financial ramifications. Firms with mandatory retirement ages may benefit from allowing a retired partner to stay on as senior counsel on a reduced-hour basis, particularly if the partner has a unique practice niche. In some firms, a retiring partner only receives a return of paid-in capital. In other firms, a retiring partner receives a return of paid-in capital as well as a return of an ownership interest of work in process, accounts receivable and fixed assets as of the retirement date and possibly a percentage of ongoing fees received from the retiring partner's clients. This is often paid out over a period of several years to minimize the current financial impact on the firm. Other firms' partnership agreements provide for payment of a percentage of the partner's average compensation over the last three years of practice for a period of typically several years up to 10 years. But your rainmaker should also make some of her own arrangements to fill her retirement sails with wind. Firms should encourage partners to maximize personal contributions to pension plans over their career or purchase annuities to provide funding to reduce the financial burden to the firm.

A Practical Practice Transition

Your retiring environmental litigator is a Nobel laureate and his junior partner is a nobody. How do you navigate the transition? Every senior partner in your firm possesses some particular legal expertise. For instance, your Nobel laureate may be the only partner with a reputation for litigating eminent domain matters for municipalities. His years of experience and substantive knowledge cannot automatically or instantly be transferred to the next generation of lawyers. Senior partners need to mentor younger lawyers over a period of years by working closely with them and taking the time to share their unique perspective. Where knowledge gaps exist, attorneys can take continuing education courses to gain greater subject matter expertise. If the generation gap between the retiring partner and the more junior lawyer is too large, firm management should consider recruiting a lateral attorney with the necessary expertise and reputation.

Keeping the Clients

The key to making sure your clients don't jump ship when their lawyers retire is to make sure clients aren't the lawyers' clients, but the firm's clients. Does your firm's compensation system reward attorneys for institutionalizing clients? How differently does your firm system reward finders, minders and grinders? Long before retirement becomes an issue, the structure of partner compensation should be reviewed. In firms in which all the credit, and therefore most of the compensation, goes to the originating attorney, clients are not viewed as "firm" clients by the partners. Originating partners tend to overzealously protect their relationships and prevent others from participating. At a minimum, responsible attorney credit should be shared among the lawyer who brings in the client, the lawyer who maintains the client relationship and the lawyer who does the legal work (in some cases only two lawyers are involved). A better way to institutionalize a client is to phase out the responsible attorney credit over time. The best strategy to develop all clients into firm clients is to pay people for their overall firm contribution.

As part of retirement transition planning, the partner with the client relationship needs to make sure that the client knows the other lawyers working on his or her matters. He should arrange meetings far in advance of the actual retirement date so the client can get better acquainted with the law firm team. As a firm policy, attorneys on the team should routinely visit the client's place of business and know about the client's business.

A retiring partner's referral sources also should be introduced to other members of the firm. Food and drink are the best lubricants for these. Consider regularly scheduling firmwide mixers and inviting referral sources for all partners, which often include bankers, accountants and other lawyers. Junior partners and senior associates should participate as well. Or, on a more informal basis, the retiring partner could schedule a lunch with a referral source and encourage each person to bring another member of their firm along. Referrals are based on relationships and people tend to better relate to their own contemporaries.

So look ahead without fear. You may be losing some good partners, leaders or managers to retirement. But if you have a plan in hand, you won't be left stranded upriver without clients or cash.

Marcia Watson Wasserman is chief operating officer of Nossaman in Los Angeles. She can be reached at 213-612-7892 or at mwasserman@nossaman.com.

Integrating Laterals Requires a Solid and Specific Game Plan

By Karen Kaplowitz

AmLaw 200 firms spent hundreds of millions of dollars in 2008 on lateral partner moves. American Lawyer's recent Lateral Report confirmed that over 2,500 partners in the AmLaw 200 changed firms, not counting the total effects of the demise of Heller Ehrman, Thelen and Thacher Proffitt. If one estimates conservatively that 3,000 partners each spent 20 hours agonizing, interviewing, dealing with clients and moving, at an average billable rate of $400 per hour, that would be a loss of $24 million in billable time. If one estimates that lawyers in acquiring firms also spent only 20 hours for each move, that would be another $24 million of lost time. When you add recruiting fees and other costs, the numbers are staggering.

How well prepared are law firms to integrate all the new partners in their midst?

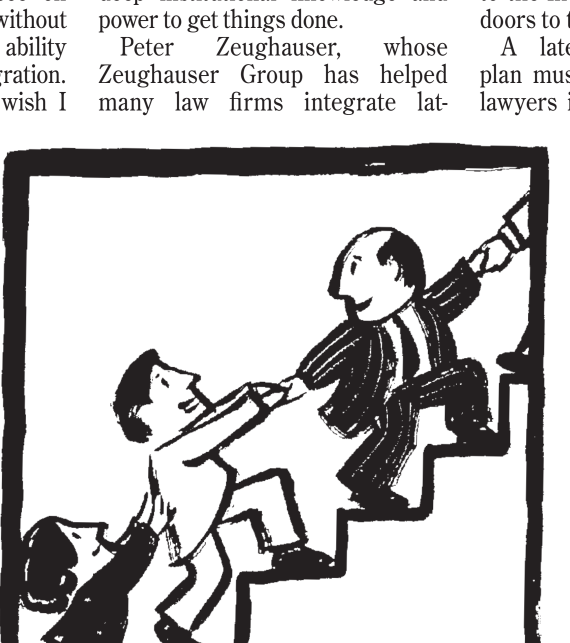
Judging from past experience, there are going to be a lot of disappointed partners and law firms this year. Two weeks ago, I wrote a cautionary newsletter piece on rainmakers' jumping ship without evaluating their new firms' ability to execute a successful integration. Typical responses were: "I wish I had considered these issues before moving two years ago," and "I have been virtually on my own since my move." We have also recently seen one prominent group of lateral partners in a niche practice leave a Los Angeles firm after only a year, complaining that they got very few introductions to other firm clients.

Most law firms focus on the obvious risks of lateral moves: Have laterals inflated their portable book of business? Is there a cultural fit between the parties? Will compensation demands of new rainmakers disrupt the established pecking order? But there are also hidden risks, the often completely unrealistic expectations on both sides that laterals can be integrated with ease.

The most common refrain of lateral recruiting: that the move will create new opportunities for the lateral to sell his services to a new client base, the new platform, and that the firm can sell its services to the lateral's clients. This part of the courtship is often delusional. It is, in effect, a commitment by everyone involved that they will undertake the most challenging parts of law firm marketing. If law firms can't get their existing partners to introduce one another to their clients, why should anyone assume that the task will be easier with lateral partners?

Many firms have no clear plan for onboarding new lateral partners. Often everyone continues to work off of the business plan that the lateral presented during the recruiting stage. But that plan was fundamentally a wish list of clients the lateral hoped to bring and perceived new synergies. That plan needs to be transformed into a specific game plan — not just by the lateral partner but by someone in the firm with deep institutional knowledge and power to get things done.

Peter Zeughauser, whose Zeughauser Group has helped many law firms integrate lateral partners, describes a good integration plan as including "a trustworthy, knowledgeable 'go-to' resource for the incoming lawyers" to help establish "appropriate involvement of the right stakeholders across practice and industry groups, offices, client teams and professional staff." Zeughauser also emphasizes the importance of firms providing a clear understanding of who is going to do what, someone in charge to make sure it all happens.



Laterals should demand support from firms but might as well accept the reality that their best chance of being successful is to use their own resources and client base to establish new relationships in the firm. The biggest mistake lateral partners make is to hold on too tightly to their old clients while expecting new partners to open their clients' doors. Laterals are often fearful that clients will not accept lawyers from their new firms and also want to be able to pick up and move if things don't work out. The fastest path for lateral partners to get their new colleagues to open doors for *them* to the firm's client base is to open doors to their own clients first.

A lateral partner's business plan must include identifying the lawyers in the new firm who can add value to the laterals' old clients. The analysis of which lawyers to introduce to clients has to be based on what benefits the client, not the firm. If a lateral has access to lawyers in China for the first time, but his old clients already have lawyers in China they like, that is the wrong avenue.

After factoring in which lawyers or practice areas add value to their clients, then laterals can and should be strategic about which lawyers to introduce. It makes sense to look for rainmakers who have clients of their own. Laterals should propose from the outset to firm rainmakers that they reciprocally find clients to introduce to one another. When laterals introduce other rainmakers to their old clients, they are not only generating more revenue for the firm, but they are giving important stakeholders a chance to see them in action.

Laterals must be careful to maintain control of client relationships. Proliferating work within the new firm should not mean giving up control, especially in the early stages of a move. Keeping control requires communications to both lawyers from the new firm and clients. Laterals must insist that new lawyers report back to them on matters for their clients. Laterals must also communicate to their old clients that they will remain watchful and accountable for the new lawyers' work. Keeping control means letting go of the day-to-day work and not micromanaging it, but never letting go of the ultimate responsibility for the client relationship.

Creating an onboarding plan to integrate laterals successfully clearly involves a heavy investment of people and time and many sensitive judgment calls. One firm that has the process down is Brown Rudnick. The most unusual element of its plan involves the collaboration of the recruiting staff and the marketing staff, beginning during the recruiting stage. The chief marketing officer of the firm meets all lateral partner candidates to help ensure clarity about the candidates' business plans and the firm's needs and expectations. When lateral partners arrive, the firm assigns each one a lawyer advocate. Recognizing the time demands on lawyers, the firm provides ongoing support from the director of professional recruitment and the marketing chief, who team up to identify specific lawyers for each lateral to meet, as well as particular deals and cases that they think new lawyers should be aware of. They make certain that new lawyers know when practice group meetings are set and encourage laterals to report on their progress. The director of professional recruitment reports on new lawyers' progress to the firm's management at regular intervals. Joanne McElhenney, Brown Rudnick's chief marketing officer, says, "We don't let them go off our radar for at least three months." The firm also monitors the responsiveness of lawyers in the firm who advocated hiring the laterals, looking critically on those who advocate for bringing in a lateral and then fail to contribute to their success.

We can expect the high volumes of lateral moves to continue in this economy. If firms do not invest more in integrating their new talent, we will also see more disappointed lawyers ending up in serial lateral moves, often at great expense to their careers and their law firms. As Carl Peters, a law firm consultant aptly notes, "The entertainment industry learned this a long time ago — it's relatively easy to buy the talent, it's managing it that's the hard part."

Karen Kaplowitz is president of The New Ellis Group, a business development strategy, training and coaching consulting firm that provides transition services to law firms and lawyers. She can be reached at kkaplowitz@newellis.com.